

Serial No. 09/845,120

Page 6

REMARKS/ARGUMENTS

This amendment is in response to the Office Action mailed on December 22, 2004, wherein Claims 1-14 were rejected. Claims 1, 8, and 12 have been amended and Claims 1-14 remain pending.

Claim Rejections Under 35 U.S.C § 102 and 103

On page 2 of the Office Action Claims 1, 2, 4, 5, and 8 were rejected under 35 U.S.C § 102(e) as being unpatentable over Taguchi in view of Foley. On page 3 of the Office Action, Claims 6, 7, and 9-14 were rejected under 35 U.S.C. § 103 as being unpatentable over Taguchi in view of Yamanaka and Foley. Applicants have amended the claims to better describe the present invention as including a reference torque model. Taguchi, Foley, and Yamanaka are silent with respect to a reference torque model. Taguchi tangentially discloses the cut off of fuel delivery to a cylinder, in column 1, lines 10-15 and Yamanaka tangentially discloses changing which cylinders are injected with fuel, in column 1, lines 35-40. Foley, Taguchi and Yamanaka, singly or in combination, do not teach or suggest the present claimed invention.

The Examiner stated that both Yamanaka and Taguchi would use some type of servo and feedback control to reposition the throttle valve. No greater words of speculation could have been written. Furthermore, a servo system and feedback control system in their basic form do not include a reference torque model. Feedback and "servo" control systems have a process variable, setpoint, transfer function, and output variable. Yamanaka and Taguchi are silent with respect to a reference torque model. The Examiner has ignored the elements of the claimed invention and failed to explain how and why the claimed subject matter is rendered unpatentable over the prior art and point out where each of the specific limitations recited in the rejected claims is found in the prior art relied on.

If the Examiner relies on personal knowledge that the apparatus of the present invention is obvious, Applicants respectfully request support for this assertion in the form of an affidavit that shall be subject to contradiction or explanation by the affidavits of the Applicant and other persons under 37 C.F.R. 1.104 (d)(2).

Serial No. 09/845,120

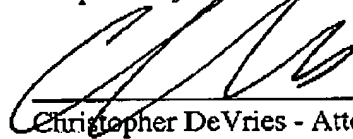
Page 7

Conclusion

The entire Office Action dated December 22, 2004 has been carefully reviewed, and this response is submitted as being fully responsive thereto. In view of the preceding remarks, Applicants respectfully submit that Claims 1-14 are in condition for allowance and respectfully request such action at the Examiner's earliest convenience. If the Examiner believes that personal contact would be advantageous to the disposition of this case, he is requested to call the undersigned at his earliest convenience.

If for some reason a fee needs to be paid, please charge Deposit Account No. 07-0960 for the fees, which may be due.

Respectfully submitted,



Christopher DeVries - Attorney
Reg. No. 44,654
Telephone: 313-665-4969

CD:sh

Serial No. 09/845,120

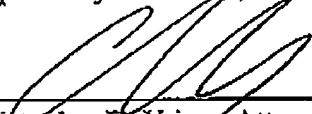
Page 7

Conclusion

The entire Office Action dated December 22, 2004 has been carefully reviewed, and this response is submitted as being fully responsive thereto. In view of the preceding remarks, Applicants respectfully submit that Claims 1-14 are in condition for allowance and respectfully request such action at the Examiner's earliest convenience. If the Examiner believes that personal contact would be advantageous to the disposition of this case, he is requested to call the undersigned at his earliest convenience.

If for some reason a fee needs to be paid as well as one-month extension fee, please charge Deposit Account No. 07-0960 for the fees, which may be due.

Respectfully submitted,



Christopher DeVries - Attorney
Reg. No. 44,654
Telephone: 313-665-4969

CD:sh